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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE:

B-198542

DATE: June 17, 1980

MATTER OF:

SMI/New York

DIGEST:

[Protest of Small Business Size Standard in IFB]

SBA Size Appeals Board determinations, whether or not accompanied by detailed "findings and determinations", are conclusive upon GAO.

SMI/New York (SMI) has requested reconsideration of our decision of May 22, 1980, which dismissed SMI's protest under invitation for bids (IFB) No. DLA700-80-B-0175 issued by the Defense Logistics Agency.

SMI challenged the small business size standard which was contained in the IFB and, in addition to protesting to our Office, protested to the Small Business Administration (SBA) Size Appeals Board. On April 28, 1980, the Size Appeals Board found that DLA had included the proper standard in the IFB. Our Office dismissed the protest because SBA's determination of such matters is conclusive and not for consideration by our Office. Kappa Systems, Inc., B-183036, May 20, 1975, 75-1 CPD 305.

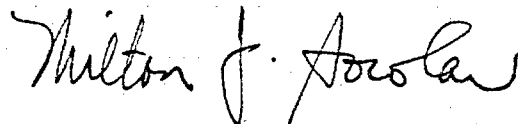
While SMI recognizes that our Office does not normally consider these matters, SMI contends that it still has not received the findings and determination to support the Size Appeals Board decision and it has requested reconsideration by SBA. SMI believes we were under the mistaken impression that the full decision of the SBA had been issued on April 28, 1980, rather than the mere conclusion without the supporting findings. Because of the alleged unusual conduct of the SBA in the case, SMI argues we should not have dismissed the protest.

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Whether SMI has received merely the holding of the Size Appeals Board or the full decision has no effect on our Office's jurisdiction in the matter. SBA's decision is conclusive and not reviewable by our Office in either circumstance. The question of SBA's conduct in the handling of the matter is more properly for consideration by a Federal district court. Cherokee Industries, Inc., B-184242, B-184774, November 19, 1975, 75-2 CPD 328.

Finally, SMI has requested our Office to advise DLA not to award a contract pending the outcome of its appeal to the Size Appeals Board on the basis that such an award would be improper. There is no requirement in the applicable procurement regulations that an award must be withheld pending an appeal of a decision by the Size Appeals Board following the initial decision by the Board. Therefore, the SMI request is denied.

The decision of May 22, 1980, is affirmed.



Acting Comptroller General
of the United States